

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RALPH HAWKINS,	§
	§ No. 143, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0309015988
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 16, 2009

Decided: March 5, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 5th day of March 2009, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Ralph Hawkins, filed an appeal from the Superior Court’s February 20, 2008 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61.¹ We find no merit to the appeal. Accordingly, we affirm.

(2) On October 20, 2003, Hawkins was indicted on charges of two counts of Murder in the First Degree, Burglary in the First Degree, Arson in the First Degree, Assault in the Second Degree, Possession of a Deadly

¹ Hawkins also filed a motion for remand “for retroapplication of new law.”

Weapon During the Commission of a Felony, and Reckless Endangering in the First Degree. On February 15, 2005, after filing several pre-trial motions, Hawkins pleaded guilty to a single count of Murder in the First Degree. In exchange for his guilty plea, the State dismissed the balance of the charges in the indictment and agreed not to seek the death penalty. The Superior Court sentenced Hawkins to a life term without the possibility of probation or parole. Hawkins did not file a direct appeal.

(3) In this appeal, Hawkins claims that a) under *Williams v. State*, 818 A.2d 906 (Del. 2003), the Superior Court had no jurisdiction to sentence him for murder; b) his Miranda rights were violated when he was taken into custody; c) the Superior Court erred when it failed to rule on his motion to be declared mentally retarded; and d) his attorneys provided ineffective assistance in connection with his guilty plea.

(4) The record reflects that Hawkins' first claim was not presented to the Superior Court in the first instance. As such, we decline to address it for the first time in this appeal.² Hawkins' remaining claims implicate the standards applicable to an ineffective assistance of counsel claim within the context of a voluntary guilty plea.³ In order to prevail on such a claim, a

² Supr. Ct. R. 8.

³ The transcript of Hawkins' guilty plea colloquy clearly reflects that his guilty plea was voluntary.

defendant must demonstrate that there is a reasonable probability that, but for his counsel's errors, he would not have pleaded guilty but would have insisted on proceeding to trial.⁴

(5) The transcript of the guilty plea colloquy reflects that Hawkins confirmed he had thoroughly discussed his plea with his attorneys and was satisfied with the advice they gave him with respect to the plea. In the absence of clear and convincing evidence to the contrary, Hawkins is bound by those representations.⁵ Moreover, Hawkins has presented no evidence that, but for error on the part of his counsel, he would not have pleaded guilty and would have insisted on proceeding to trial. Hawkins received a clear benefit by accepting the State's plea bargain. Finally, under Delaware law, a voluntary guilty plea constitutes a waiver of any alleged errors or defects occurring prior to the entry of the plea.⁶ As such, Hawkins has waived his claim of a Miranda violation and his claim of error on the part of the Superior Court in failing to rule on his motion to be declared mentally retarded.⁷

⁴ *Albury v. State*, 551 A.2d 53, 60 (Del. 1988).

⁵ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

⁶ *Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).

⁷ The transcript of the plea colloquy does not reflect that Hawkins had any trouble understanding the Superior Court's questions. Moreover, the record reflects that, if Hawkins had not pleaded guilty and had proceeded to trial, the State was prepared to present the testimony of three experts who would opine that Hawkins was not mentally retarded. Del. Code Ann. tit. 11, § 4209(d) (3).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.⁸

BY THE COURT:

/s/Henry duPont Ridgely
Justice

⁸ Hawkins' motion for remand is hereby denied as moot.